

**NEWPORT BEACH HARBOR COMMISSION MINUTES**  
**City Council Chambers**  
**December 8, 2010**

**CALL TO ORDER**

6:00 P.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

Commissioners Don Lawrenz, Vincent Valdes, Doug West, Karen Rhyne, Ralph Rodheim and Duncan McIntosh were present. Commissioner Duffield was absent.

Council Liaison: Nancy Gardner

Staff: Manager Chris Miller  
Supervisor Shannon Levin

**MINUTES**

October 2010 and November 2010 minutes were approved.

**PUBLIC COMMENTS ON NON-AGENDA ITEMS**

John Cunningham from Little Balboa Island commented that the City should reevaluate the fishing at the Park Avenue public pier and add that to the list of piers that don't allow fishing. Another Little Island resident, John Long, commented that the Park Avenue pier is a hangout for gang members and is a potentially lethal area.

**ACTION & APPEAL ITEMS**

***ITEM #1***

**Subject:** General Plan / Local Coastal Program Implementation Committee – Exploring the Harbor Commission's Potential Involvement

**Issue:** The Harbor Commission will consider the potential to participate with the General Plan / Local Coastal Program Implementation Committee.

**Discussion:** Commissioner Rodheim nominated Commissioner West and the motion was seconded by Commissioner Rhyne. Councilmember Gardener will bring up the topic to the City Council at its next meeting

**Public Comments:** No public comments.

**Action:** The Harbor Commission requested that the City Council allow Harbor Commission representation at the GP/LCPIC and nominated Doug West to represent the Harbor Commission. Motion carried.

***ITEM #2***

**Subject:** Mooring Fees and Mooring Transfer Rules – Review of Council Adopted Resolution and Ordinance

**Issue:** The Harbor Commission will be updated on the recent City Council action on November 23, 2010 concerning mooring fees and mooring transfer rules.

**Discussion:** Commissioner Lawrenz questioned the ability to get preferential treatment on the waitlist if a current permittee wishes to obtain a larger mooring. Staff will explore the nuances of transfers. Commissioner McIntosh asked about the vacancy of moorings and helping those on the wait list to obtain a short term sub-permit. Staff and the Council will continue to adjust harbor fees including commercial leases.

**Public Comments:** No public comments.

**Action:** Receive and file.

**ITEM #3****Subject: Mooring Support Service Center – Subcommittee Formation**

**Issue:** City Councilmember Ed Selich has requested the Harbor Commission study the feasibility of creating a Mooring Support Service Center at the Balboa Yacht Basin, then return to Council in February 2011 with a recommendation for implementation.

**Discussion:** Commissioner Rodheim likes the idea and would like to see some public access side ties, and suggested that Commissioner Duffield chair the subcommittee.

**Public Comments:** No public comments.

**Action:** Motion to form a subcommittee consisting of Commissioners Duffield, Lawrenz and Rhine to study the concept of a Mooring Support Service Center at the Balboa Yacht Basin, then submit a recommendation to Council in February. Motion carried.

**SUB-COMMITTEE REPORTS**

**Code Enforcement Subcommittee:** Commission West spoke on behalf of the committee. Findings include to recommend that the subcommittee investigate and report to the Harbor Commission on six topics including the duties of the Harbor Commission according to the Harbor Code. Commissioner West commented that in July the Commissioner West was given a document drafted by the Bay Issues Committee revising the NBMC §17.05.065, Harbor Commission responsibilities. The Commission has not commented on the proposed changes. Councilmember Gardener explained that the generalities of the Harbor Commission's duties were to be clarified and at that time there was no Council Liaison. She also stated that the subcommittee should continue to evaluate the responsibilities. Commissioner West submitted a handout with all the references of the Harbor Commission's responsibilities in the Harbor Code.

**Overhang Subcommittee:**

Commissioner Rodheim informed the Commission that the subcommittee discussed the goal of the overhang issues and potential recommendations. Two topics for the committee include overhang and the Project Line boundaries. The subcommittee will report findings to the City Council. Commissioner McIntosh questioned the situation specific overhang of the project line and how the Harbor Marina was built completely outside of the Harbor Lines. Councilmember Gardener tasked the Commission to come up with a general policy, implementation plan, and an estimate of hours needed, and then allow the Council to decide whether to pursue the project.

**COUNCIL LIAISON REPORT**

Councilmember Gardener brought up the visioning of the Lido Marina Village and current City Hall site and advised the Commission to keep tabs on the project. The first report on sea level rise will be addressed at the Council meeting on December 14, 2010.

**HARBOR RESOURCES UPDATE** – Chris gave a PowerPoint presentation on harbor updates. *The update is posted at <http://www.newportbeachca.gov/index.aspx?page=1658>*

**RECOMMENDED TOPICS FOR FUTURE AGENDAS:**

- Move anchorage to the top part of the bay
- Lower Castaways Vision Plan
- Dinghy Dock at Lido Bridge
- Bilge/pumpout stations

**PUBLIC COMMENTS**

None

**DATE OF NEXT MEETING:**

January 12, 2011

**ADJOURNMENT**

## **NEWPORT BEACH HARBOR COMMISSION DUTIES AND RESPONSIBILITIES**

As Provided by the "Harbor Code"  
Title 17, Newport Beach Municipal Code

The Harbor Commission was established by Ordinance 2001 – 25,  
adopted by the Newport Beach City Council, January 8, 2002

### **17.05.065 Duties of the Harbor Commission.**

It shall be the duty of the Harbor Commission to:

- A. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels within Newport Harbor;
- B. Approve, conditionally approve, or disapprove applications on all permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission;
- C. Serve as an appellate and reviewing body for decisions of the City Manager on permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission;
- D. Advise the City Council on proposed harbor-related improvements;
- E. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager;
- F. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, and policies of the Harbor and Bay Element of the General Plan. (Ord. 2008-2 § 1 (part), 2008)

**Other specific references in the Harbor Code to the Duties and Responsibilities of the Harbor Commission:**

**17.05.070 Establishment of Channels, Turning Basins, Etc.**

All channels, turning basins, anchorage areas, and pierhead and bulkhead lines in Newport Harbor shall be as established by the Federal Government or by the City Council *upon recommendation of the Harbor Commission*

**17.05.110 Rules for Interpretation**

Where uncertainty exists regarding the interpretation of any provision of this Code or its application to a specific site, the Harbor Resources Manager shall determine the intent of the provision and issue a written administrative interpretation. *An interpretation by the Harbor Resources Manager may be appealed to the Harbor Commission, as provided in Chapter 17.65.* (Ord. 2008-2 § 1 (part), 2008)

**17.10.030 Application for Marine Activities Permit.**

An application for permit under this chapter shall be filed with the Harbor Resources Manager, upon forms provided by the City, and shall contain such information *which the Harbor Commission or Harbor Resources Manager may require.* (Ord. 2008-2 § 1 (part), 2008)

**17.10.070 Power to Impose Conditions (Marine Activities Permits)**

A. In granting any permit pursuant to this chapter, *the Harbor Resources Manager, or the Harbor Commission on appeal,* may impose any additional conditions on the permit to ensure that the proposed commercial activity will be compatible with the predominantly recreational character of Newport Harbor, the rights of other persons using Newport Harbor, the interests of residents and property owners whose properties abut or are in close proximity to Newport Harbor, and the interests of the general public.

### **17.10.12 Application to Existing Commercial Activities**

All marine activities permits issued under this section shall be deemed to meet the requirements of Chapter 17.10 for renewal purposes unless or until such time as the *Harbor Resources Manager or the Harbor Commission* determines there is a substantial change in the commercial activity.

### **17.65.010 Authorization of Appeals**

Decisions of the Harbor Resources Manager resulting from the Manager's administration of this Code *may be appealed to the Harbor Commission* by any interested person. Decisions of the Harbor Commission may be appealed to the City Council by a member of the City Council pursuant to the provisions of this chapter. (Ord. 2008-2 § 1 (part), 2008)

### **17.70.020 Revocation of Permit.**

A. Ground for Revocation. Any permit heretofore or hereafter granted for any structure, work, or activity in the waters of Newport Harbor or the Pacific Ocean *may be revoked by the Harbor Commission* upon any of the following grounds:

1. The work, structure, use or activity has become detrimental to commerce, navigation or fishing;
2. The work, structure, use or activity is detrimental to the use, operation or development of the harbor;
3. The work, structure, use or activity has become a source of pollution of the harbor;
4. The work, structure, use or activity does not comply with the permit or does not meet the standards adopted by the Harbor Commission for such work or structure;
5. The permittee has failed for a period of sixty (60) days to pay the fee or fees heretofore or hereafter imposed for the occupancy of tidelands, filled tidelands or submerged lands upon which such work or structure exists;

6. The work or structure has fallen into a state of disrepair;
7. The space occupied by such work or structure is over public trust land and such space is to be devoted to a more necessary public use;
8. The permittee has breached or failed to comply with the terms or conditions contained in the permit or upon which the permit was granted.
9. The work, structure, use or activity violates the terms of the tidelands trust grants to the City.

B. Notice and Hearing. Any such permit shall be revoked only after a *public hearing before the Harbor Commission* at which the permittee has an opportunity to be heard. At least fifteen (15) days' notice of such hearing shall be given in writing by first class mail with postage prepaid addressed to the address of the permittee shown on such permit, setting out the date, time and place of hearing.

The Harbor Commission may preside over the hearing or, in the alternative, appoint a Hearing Officer to conduct the hearing, receive relevant evidence and to submit to the Harbor Commission findings and recommendations to be considered by the Harbor Commission. The Harbor Commission shall render its decision within forty-five (45) days from the date of the hearing or, in the event that a Hearing Officer has been appointed, within forty-five (45) days from the date on which the Harbor Commission receives the findings and recommendations of the Hearing Officer. The decision of the Harbor Commission shall be final.